IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

Crl.Rev.Pet.No. 646 of 1999()

AGAINST THE JUDGMENTS OF CONVICTION AND SENTENCE DT. 5.6.96 IN CRA.173/1996 of SESSIONS COURT, THRISSUR
ST.1624/1995 of JUDL. MAGISTRATE OF FIRST CLASS COURT, KODUNGALLUR

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REVN. PETITIONERS: APPELLANTS/ ACCUSED
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1. **RAMESHAN, S/O. APPU,**
   KOOVAKATTIL ELTHURUTHU
   METHALA VILLAGE, THRISSUR.

2. **KALYKUTTY W/O.APPU,**
   KOOVAKATTIL
   ELTHURUTHU, METHALA VILLAGE,
   THRISSUR.

3. **VASANTHY, W/O.SUKUMARAN,**
   PADATHARA VALLARPADAM,
   MULAKUKAD.

BY ADV. SRI.K.A.JALEEL
SRI.T.T.MOHAMMED

RESPONDENT: RESPONDENT/ COMPLAINANT

THE STATE OF KERALA
REP.BY (S.I. OF POLICE KODUNGALLUR)
PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 18 /06 / 2007 , THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.R.P.NO.646 of 1999

DATED THIS THE 18th June 2007

ORDER

The revision petitioners stand convicted for the offence under Section 294(b) and 509 read with Section 34 I.P.C. and sentenced to pay a fine of Rs. 500/- each and in default to undergo simple imprisonment for 15 days each under Section 294(b) IPC and to pay a fine of Rs.1000/- each and in default to undergo simple imprisonment for one month each for the offence under Section 509 I.P.C.

The prosecution case is that the accused on account of pre-existing animosity uttered obscene words aimed at PW1, a lady, on 30-4-1995 at 11.a.m. The evidence adduced in the matter consisted of the testimony of PWs. 1 to 6, Exts.P1 to P3. Pws.1 to 3 the victim. The occurrence witnesses have testified with respect to the incident. PW4 is the scene mahazar witness and PW5, the police officer who recorded the F.I.S.and registered the crime and PW6, the investigating officer. The contention of the counsel for the revision petitioner is that PW1 has not

testified or reproduced the exact words used by the accused and hence the offence cannot be said to have been attracted. It is also contended that the incident has not taken place at a public place.

3. On a consideration of the evidence adduced in the matter, I find that both the contentions are without merit. PW2 has testified with respect to the incident but out of delicacy as expressed by her she has not repeated the words allegedly mentioned by the accused. PW2, on the other hand, has reproduced the words used by the accused and that Pws.1 and 3 have stated that the accused used abusive words. Hence I find that the contention that Pw1 has not reproduced the words as such in her testimony is no ground to hold that the prosecution has not proved the offence beyond reasonable doubt. The contention that the incident has not taken place in a public place is no defence as the incident has taken place near the public place which would satisfy the requirements of the section. In the circumstances and in the light of the evidence adduced in the matter, I find no reason to interfere in the concurrent findings

of the courts below. The conviction is confirmed.

So far as the sentence is concerned, I find that only fine has been imposed. Hence, there is no scope for any modification in the sentence imposed. The sentenced imposed to pay a fine also is confirmed. The Crl.revision petition is dismissed.

K.R.UDAYABHANU, JUDGE

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K.R.UDAYABHANU, J
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CRL.R.P.NO.646 of 1999

ORDER

18-6-2007

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ORDER ON CRL.M.P. NO. 2852/1999 IN CRL.R.P.NO. 646 OF 1999

DISMISSED.

18-6-2007 SD/-K.R.UDAYABHANU, JUDGE

TRUE COPY

P.S.TO JUDGE